

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 523 Licensure to Carry a Concealed Weapon or Firearm
SPONSOR(S): Business & Professional Regulation Subcommittee; Grant and others
TIED BILLS: HB 525 **IDEN./SIM. BILLS:** CS/SB 544

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professional Regulation Subcommittee	10 Y, 2 N, As CS	Brown-Blake	Luczynski
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) Regulatory Affairs Committee			

SUMMARY ANALYSIS

The Department of Agriculture and Consumer Services (Department) is responsible for issuing licenses to carry concealed weapons or concealed firearms to those who qualify.¹ Carrying concealed weapons or firearms without first obtaining a license could be a crime pursuant to s. 790.01, F.S. Currently, applicants for licensure to carry concealed weapons or firearms may apply in person at one of the Department's eight regional offices or submit an application by mail.

The bill authorizes the Department to appoint tax collectors for the purpose of accepting applications for concealed weapons or firearms licenses or renewals. In order to be considered by the Department, tax collectors must submit a request to the Department to accept applications for concealed weapons or firearms licenses. Upon approval of the tax collector's qualifications by the Department, the Division of Licensing then has the discretion to enter into a Memorandum of Understanding (MOU) with the tax collector.

Under this MOU, tax collectors will be able to accept application and payment for licensure to carry concealed weapons or firearms, and remit the payment and application to the Department for processing. The bill provides that the tax collector may obtain a convenience fee of \$22 for each new application and \$12 for each renewal application. It remains the Department's responsibility to process the applications and issue concealed weapons and firearms licenses to qualified applicants.

All personal identifying information provided for the license or renewal that is contained in a tax collector's records as a result of the MOU is given confidential and exempt status by the linked bill, CS/HB 525.

The bill makes no changes to eligibility criteria or license application requirements.

The bill is expected to have a fiscal impact on the Department of Agriculture and Consumer Services in the form of an appropriation of \$707,608 recurring and \$105,503 nonrecurring.

The bill is expected to have no fiscal impact on local government.

The bill has an effective date of July 1, 2014.

¹ Section 790.06(1), F.S.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Issuance of Concealed Weapons or Firearms Licenses

The Department of Agriculture and Consumer Services (Department) is responsible for issuing licenses to carry concealed weapons or concealed firearms to those who qualify.² Carrying a concealed weapon without first obtaining a license could be a crime pursuant to s. 790.01, F.S. A concealed weapon or concealed firearm is defined as a handgun, electronic weapon or device, tear gas gun, knife, or billie.³

Concealed Weapons or Firearms License Application Requirements

In order to obtain a concealed weapons or firearms license, applicants must make application and meet the following general requirements:

- Is a citizen or permanent resident alien of the United States; or is a consular security official of a foreign government with diplomatic relations with the United States.
- Is at least 21 years old.
- Can physically handle a weapon safely.
- Is not a convicted felon.
- Has not been convicted of a crime under ch. 893, F.S., or been committed for the abuse of a controlled substance within a 3-year period immediately preceding the application date.
- Does not chronically and habitually use alcoholic beverages or other substances to the extent that his or her normal faculties are impaired.
- Demonstrates competence with a firearm by completing a firearm training course or presents evidence of equivalent experience with a firearm through participation in organized shooting competition or military service; or is or has previously been licensed to carry a firearm in Florida.
- Has not been adjudicated an incapacitated person under s. 744.331, F.S.
- Has not been committed to a mental institution under ch. 394, F.S.
- Has not had adjudication of guilt withheld or imposition of sentence suspended on any felony or misdemeanor crime of domestic violence unless three years have elapsed since probation or any other conditions set by the court have been fulfilled.
- Is not currently under a domestic violence injunction.
- Is not prohibited from purchasing or possessing a firearm by any other provision of Florida or federal law.⁴

To obtain a concealed weapons or firearms license, a person must complete, under oath, an application that includes:

- The name, address, place and date of birth, race, and occupation of the applicant.
- A full frontal view color photograph of the applicant which must be taken within the preceding 30 days.
- A statement that the applicant has been furnished with a copy of ch. 790, F.S., relating to weapons and firearms and is knowledgeable of its provisions.
- A warning that the application is executed under oath with penalties for falsifying or substituting false documents.

² Section 790.06(1), F.S.

³ *Id.*

⁴ Section 790.06(2), F.S.

- A statement that the applicant desires concealed weapons or firearms license as a means of lawful self-defense.
- A full set of fingerprints.
- Documented proof of completion of a firearms safety and training course.
- A nonrefundable license fee no greater than \$70 for a new license or no greater than \$60 for a renewal.⁵

There is an additional \$42.00 fee for processing the fingerprints, which comprises \$16.50 for the FBI national background check, \$15 for the FDLE Florida background check, and \$10.50 for the Department to cover LiveScan electronic fingerprint scanner machine maintenance and personnel.⁶ In addition, sheriff's offices are statutorily authorized to collect \$5 for fingerprinting services.⁷

Section 790.06(6)(c), F.S., requires the Department to either issue the license or deny its issuance and notify the applicant within 90 days of receiving a completed application. The most common reasons for delay and the Department's response to those issues are as follows:

- An incomplete application. The Department will notify the applicant by letter of any deficiencies request the missing information or documentation.
- The fingerprints are insufficiently legible to complete a proper background check. The Department will request a second fingerprint submission as required by law. If the second fingerprint submission is also deemed illegible, the Department can then ask the FBI to conduct a name-based background check.
- The background check results reflect a potentially disqualifying crime without a final disposition. The Department will request court documents indicating the final disposition.⁸

In order to prevent some of these issues, the Department has made a "Fast Track Processing" system available to applicants in eight regional offices. During an appointment, the applicant can fill out and submit the application, have their fingerprints scanned electronically, have their picture taken and make their payment. Staff reviews the application for completeness at the regional office before it is submitted to the Department's Division of Licensing for final processing.

Renewal concealed weapons or firearms licenses require less documentation and can be completed much faster either via a regional office or by mail. If a renewal is done in one of the eight regional offices, with few exceptions, the limited processing work can be done onsite and the renewal license is issued to the waiting applicant.

Concealed weapons or firearms license application submissions have steadily increased over the last 14 years. During fiscal year 1999-2000, the Department received 28,618 applications for initial licensure and 73,821 applications for licensure renewal.⁹ During fiscal year 2012-2013, the Department received 204,288 new license applications and 60,293 applications for license renewal.¹⁰ During the same time period, the Department issued 192,026 new concealed weapons or firearms

⁵ Section 790.06(4)-(5), F.S.

⁶ Email from Grace Lovett, Office of Legislative Affairs, Department of Agriculture and Consumer Services, RE: Website from FDLE, regarding fingerprint fee collected with carrying concealed weapons and firearms applications, February 12, 2014 (on file with the Business & Professional Regulation Subcommittee).

⁷ Section 790.06(6)(b), F.S.

⁸ Florida Department of Agriculture and Consumer Services, Frequently Asked Questions, *available at* <http://www.freshfromflorida.com/Divisions-Offices/Licensing/Frequently-Asked-Questions#Q3> (last viewed February 19, 2014).

⁹ Florida Department of Agriculture and Consumer Services, Concealed Weapon or Firearm Licensed Reports, Applications and Dispositions by County, July 01, 1999-June 30, 2000, *available at* http://www.freshfromflorida.com/content/download/7497/118839/07011999_06302000_cw_annual.pdf (last viewed February 10, 2014).

¹⁰ Florida Department of Agriculture and Consumer Services, Concealed Weapon or Firearm Licensed Reports, Applications and Dispositions by County, July 01, 2012-June 30, 2013, *available at* http://www.freshfromflorida.com/content/download/7484/118761/07012012_06302013_cw_annual.pdf (last viewed February 10, 2014).

licenses and 59,856 renewals.¹¹ As of the end of FY 2012-2013, there were 1,098,458 valid Florida concealed weapons or firearms licenses.¹²

Applications for licensure to carry concealed weapons or firearms may be submitted in person or mailed to one of the Department's eight regional offices.¹³ These regional offices are located in the following cities:

- Doral
- Fort Walton Beach
- Jacksonville
- Orlando
- Punta Gorda
- Tallahassee
- Tampa
- West Palm Beach¹⁴

Tax Collector Authority

Article VIII, section 1(d) of the Florida Constitution provides that Tax Collectors are elected County Officers, except when provided by county charter or special law approved by the vote of the electors of the county.¹⁵ The tax collector is the county officer charged with the collection of ad valorem taxes levied by the county, the school board, any special taxing districts within the county, and all municipalities within the county.¹⁶ Tax collections are supervised by the Department of Revenue.¹⁷

Several state agencies and departments are currently authorized to enter into agreements with tax collectors for various purposes. Some examples that are similar to the arrangement with the Department contemplated by the bill include:

- The Department of State may appoint a county tax collector as an agent to accept applications for licenses or license renewals or other similar registrations.¹⁸
- The Department of Highway Safety and Motor Vehicles (DHSMV) authorizes tax collectors to act as agents of the department in matters of motor vehicle registration. DHSMV has statutory authority to install The Florida Real Time Vehicle Information System in the tax collectors offices to facilitate the agency relationship.¹⁹
- DHSMV also has a statutory mandate to enter interagency agreements with tax collectors to issue driver licenses, identification cards, and vessel registrations.²⁰
- The tax collectors may sell licenses for game hunting and fishing, as authorized by statute and the Fish and Wildlife Conservation Commission.²¹

¹¹ Id.

¹² Florida Department of Agriculture and Consumer Services, Number of Valid Florida Concealed Weapon Licenses as Reported at the End of Each Fiscal year (June 30) Since Program Inception in October 1987, *available at* http://www.freshfromflorida.com/content/download/7504/118881/NumberOfValidCWLicenses_FiscalYearEndSince1987-1988.pdf (last viewed February 10, 2014).

¹³ Florida Department of Agriculture and Consumer Services, Concealed Weapon License Application website, *available at* <http://www.freshfromflorida.com/Divisions-Offices/Licensing/Concealed-Weapon-License/Concealed-Weapon-License-Application> (last viewed February 12, 2014).

¹⁴ Florida Department of Agriculture and Consumer Services, Regional Office Locations website, *available at* <http://www.freshfromflorida.com/Divisions-Offices/Licensing/Regional-Offices/Regional-Office-Locations> (last viewed February 12, 2014).

¹⁵ FLA. CONST. art. VIII, s. 1(d).

¹⁶ Section 192.001(4), F.S.

¹⁷ Section 197.603, F.S.

¹⁸ Section 288.037, F.S.

¹⁹ Section 320.03, F.S.

²⁰ Section 322.135, F.S., s. 328.73, F.S.

²¹ Section 379.352(4), F.S.

- The Department of Business and Professional Regulation (DBPR) may enter into an agreement with county tax collectors to act as the department's agent to accept applications for licenses or renewals of licenses to practice professions that fall within DBPR jurisdiction.²²

Effect of the Bill

The bill amends s. 790.06, F.S., to permit a tax collectors approved by the Department to administer fingerprints and accept applications for license to carry concealed weapons or firearms. Additionally, the bill creates s. 790.0625, F.S., which authorizes the Department to appoint elected tax collectors for the purpose of accepting and forwarding to the Department applications for concealed weapons or firearms licenses or renewals on behalf of the Division of Licensing (Division).

In order to be considered by the Department, tax collectors must submit a written request to the Division to accept applications for concealed weapons or firearms licenses. The Division has the discretion to enter into a Memorandum of Understanding (MOU) with the tax collector. The Department or Division has the authority to rescind the MOU for any reason at any time.

All personal identifying information provided for the license or renewal that is contained in a tax collector's records as a result of the MOU is given confidential and exempt status by the linked bill, CS/HB 525.

A tax collector appointed under the provisions of the bill is authorized to retain a convenience fee of \$22 in addition to the \$70 initial application fee submitted with the initial license application and a convenience fee of \$12 in addition to the \$60 renewal fee submitted with the renewal application. License fees collected by the tax collector are to be remitted to the Department weekly.

Appointed tax collectors may not maintain a list of persons who apply for or receive a new or renewal concealed weapons or firearms license. Maintaining such a list makes the person subject to the penalty provisions of s. 790.335, F.S.

The bill authorizes tax collectors approved for appointment to administer fingerprints for license applicants. Persons who are not appointed by the Department are prohibited from handling applications for any fee or compensation.

The bill creates a second degree misdemeanor for willful violations of s. 790.0625, F.S. The bill does not change eligibility criteria or license application requirements.

The bill provides appropriations for the Department of Agriculture and Consumer Services in the sums of \$707,608 recurring and \$105,503 nonrecurring.

B. SECTION DIRECTORY:

Section 1 amends s. 790.06(5), F.S., to permit the tax collectors to receive applications for a license to carry concealed weapons or firearms.

Section 2 creates s. 790.0625, F.S., authorizing the Department of Agriculture and Consumer Services to appoint tax collectors to accept applications for licensure to carry concealed weapons or firearms.

Section 3 provides for an appropriation of \$707,608 recurring and \$105,503 nonrecurring funds to the Department of Agriculture and Consumer Services.

Section 4 provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

²² Section 455.213(1), F.S.
STORAGE NAME: h0523a.BPRS
DATE: 2/24/2014

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Department estimates an indeterminate amount of additional revenue will be generated and paid into the Division of Licensing Trust Fund due to a possible increase in applications for licensure to carry concealed weapons or firearms at tax collector's offices.

2. Expenditures:

The Department indicates that the bill will require an appropriation of \$707,608 recurring and \$105,503 in nonrecurring funds which includes 11 full-time equivalent positions with associated salary to provide infrastructure costs to cover training and support for tax collectors participating in the program, to purchase necessary equipment, and to process the anticipated increase in licensure applications.²³

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Department estimates an indeterminate amount of additional revenue will be generated and for local governments due to the \$22 fee retained by tax collectors accepting applications for licensure to carry concealed weapons or firearms. The Department is unable to estimate the number of applications that will be received by the tax collectors' offices.

2. Expenditures:

Tax collectors will be responsible for obtaining a minimum of two personal computers, a camera and document image scanner, and other equipment costing a total of approximately \$3000 for a minimum set-up in order to be able to accept applications for licensure to carry concealed weapons or firearms. Each tax collector that is accepted by the Department shall be responsible for this cost. An estimated 30 total counties have indicated their interest in participating in the program. If each tax collector that has indicated interest is approved, the total costs for local expenditures will be approximately \$90,000.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The language provides that the \$22 convenience fee the tax collector may retain is in addition to the \$70 initial application fee, which would directly impact the private sector. However, making the application process for licensure more convenient may increase the number of individuals applying for licensure. Local private companies provide the training courses required for initial licensure. If the convenience of applying at a tax collector's office increases applications, the local private companies that provide the training courses could experience an increase in revenue due to more individuals taking the classes.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have

²³ Email from Grace Lovett, Office of Legislative Affairs, Department of Agriculture and Consumer Services, RE: Estimate for amendment to include appropriations, February 11, 2013 (on file with the Business & Professional Regulation Subcommittee).

to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Department is given rulemaking authority to determine what information must be included in the written request from the tax collector.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 18, 2014, the Business & Professional Regulation Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute.

The strike-all amendment made the following changes to the filed version of the bill:

- Removes the amendment to s. 790.0601, F.S., prohibiting tax collectors or their employees from disclosing identify information received pursuant to s. 790.063, F.S., from an individual applying for a license to carry concealed weapons or firearms. This provision was already provided for in newly created s. 790.0625, F.S.
- Renumbers s. 790.063, F.S., as s. 790.0625, F.S.
- Provides definitions for Department and Division for s. 790.0625, F.S.
- Provides that the \$22 fee for initial application and \$12 fee for renewal application is in addition to the application fees rather than taken from the application fees.
- Provides for an appropriation for the Department of Agriculture and Consumer Services.

The staff analysis is drafted to reflect the committee substitute.